



## DEPARTMENT OF TRANSPORTATION

### Federal Transit Administration

[FTA Docket No. FTA-2022-0020]

### National Transit Database Safety and Security Reporting Changes and Clarifications

**AGENCY:** Federal Transit Administration, United States Department of Transportation (DOT).

**ACTION:** Final Notice; Response to Comments.

**SUMMARY:** This Notice finalizes and responds to comments on proposed changes and clarifications to the National Transit Database (NTD) Safety and Security (S&S) reporting requirements published in the *Federal Register* on July 15, 2022.

**DATES:** The S&S-60 reporting requirements will take effect beginning in NTD Report Year (RY) 2023, which corresponds to an agency's fiscal year, while all changes to the S&S-40 and S&S-50 will take effect in Calendar Year (CY) 2023.

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#### A. Background

The National Transit Database (NTD) is the Federal Transit Administration's (FTA) primary database for statistics on the transit industry in the United States. Pursuant to 49 U.S.C. 5334(k), FTA published a notice in the Federal Register on July 15, 2022, (87 FR 42539) seeking public comment on proposed changes and clarifications to NTD Safety & Security (S&S) reporting

requirements. The comment period closed on September 13, 2022.

The proposed updates to NTD S&S reporting requirements implement changes to Federal transportation law made by the Bipartisan Infrastructure Law, enacted as the Infrastructure Investment and Jobs Act (Pub. L. 117–58). FTA proposed changes and clarifications on two topics: (1) assaults on a transit worker; and (2) fatalities that result from an impact with a bus.

FTA received 24 comments from 8 unique commenters. One comment was outside the scope of the proposal and is not addressed in this document.

## **B. Assaults on a Transit Worker**

Twenty-three comments addressed elements of FTA’s proposals regarding assaults on a transit worker, including related definitions. FTA’s proposals stemmed from changes to 49 U.S.C. 5335(c), following enactment of the Bipartisan Infrastructure Law.

### **1. Definitions**

**Comments:** FTA received three comments in response to its proposal to change the definition of “assault.” One of these comments expressed that FTA should adopt an existing definition of assault, such as the one used by the Federal Bureau of Investigation’s (FBI) National Incident-Based Reporting System, rather than adopting a new definition. A second comment requested that FTA amend its definition of “assault” to align it with State law, saying that the proposed definition is too vague and would include assaults that were not criminally prosecutable. The last comment requested that FTA revise its definition of “assault” to include “an act of interference with a transit worker’s performance of their duties,” emphasizing that this definition should capture any interference with a transit worker such as verbal assaults, and that this is a low threshold for what constitutes an assault.

**FTA Response:** FTA appreciates the comments received on its proposed definition of “assault.” Prior to the enactment of the Bipartisan Infrastructure Law, the NTD specified a definition of “assault.” Congress then amended 49 U.S.C. 5302, adding a definition of “assault on a transit worker.” However, Congress did not define “assault.”

FTA proposed changing the NTD's definition of "assault" to "an attack by one person on another without lawful authority or permission" to ensure consistency with the new statutory definition of "assault on a transit worker." "Although this definition is potentially broader than how assault" is defined under State law, this change is necessary to ensure the definition is consistent with the statute. For this reason, FTA declines to adopt the suggestion that the NTD use a different definition of "assault," such as the definition in the FBI's National Incident-Based Reporting System.

FTA notes that a definition of "assault" is necessary to collect data on attacks against individuals other than transit workers (*e.g.*, an attack on a bus by one passenger on another) when such events meet an NTD reporting threshold. FTA's new definition of "assault" (as applied to all individuals) is not identical to the definition of "assault on a transit worker." FTA recognizes that transit workers face unique challenges that make identical definitions for these terms impractical. For instance, the statutory definition of "assault on a transit worker" includes "interfere[ence] with...a transit worker while the transit worker is performing the duties of the transit worker," which would not apply to assaults on individuals who are not transit workers. This is because passengers and other non-transit workers would not have official duties where interference could occur. Moreover, passengers interact or potentially interfere with each other's activities in other contexts that would not qualify as an assault (*e.g.*, standing across an entire escalator step). FTA therefore declines to adopt the suggestion to include "an act of interference with a transit worker's performance of their duties" in the definition of "assault." However, FTA notes that the NTD is adopting the statutory definition of "assault on a transit worker" verbatim. Accordingly, assaults on transit workers involving interference are reportable on either the S&S-40, S&S-50, or S&S-60. Thus, FTA is adopting the definition of "assault" as proposed.

**Comments:** FTA received two comments regarding the definition of "assault on a transit worker." One comment supported FTA's adoption of the statutory definition of "assault on a transit worker" found in 49 U.S.C. 5302(1). The second comment provided legislative history

about the statutory definition and emphasized that the key phrase in this definition is “interferes with,” noting that this is a low threshold.

**FTA Response:** FTA appreciates the comments received about the definition of “assault on a transit worker.” As discussed in the Federal Register notice published on July 15, 2022, FTA did not seek comment on this definition. FTA will incorporate the statutory definition into the NTD without change.

**Comments:** FTA received two comments on the proposed definition of “transit worker.” One commenter expressed support for the definition of “transit worker,” noting the importance of including assaults on contractors and volunteers, while also noting that the change would require them to make changes to an internal database. One comment recommended that FTA use the definition of “transit employee” from the NTD Safety and Security Policy Manual instead of developing a new definition of “transit worker.” This commenter also requested that, if FTA adopts the proposed definition of “transit worker,” FTA clarify that the definition applies only to NTD reporting of assaults on a transit worker.

**FTA Response:** FTA appreciates the comments about this proposal and recognizes that this change may require transit agencies to update existing processes. FTA is not replacing the definition of “transit employee” but is adding a definition for “transit worker.” The NTD Safety and Security (S&S) manual states that transit employees are “compensated by the transit agency,” which does not meet FTA’s intent to capture assaults on any volunteer for the transit agency in addition to those compensated by the agency. Further, FTA currently uses “employee” in the context of reporting Employee hours and counts annually on the Employees (R-10) form. Expanding the definition of transit employee to include volunteers would require additional notice for purposes of annual NTD reporting. Therefore, these will be separate terms. FTA confirms that the NTD will only use the term “transit worker” in the context of transit worker assault reporting. FTA will adopt the definition of “transit worker” as proposed.

## **2. Collections**

**Comment:** One comment suggested that FTA should require all grant recipients to report any incident in which a transit worker has experienced interference while performing their job duties. As discussed above, the commenter also provided legislative history regarding the statutory definition of “assault on a transit worker,” emphasizing the importance of the “interferes with” language in the definition.

**FTA Response:** FTA agrees that all assaults on transit workers involving interference are assaults that are reportable on either the S&S-40, S&S-50, or S&S-60. Regarding the requirements for reporting assaults, FTA notes that the collection of data is also dependent on a reporting agency’s resources. For example, Full Reporters use the S&S-40 and S&S-50, and smaller agencies generally complete the S&S-60. FTA will continue to review the data over time and potentially determine that smaller reporters must also complete the S&S-40 depending on future trends.

**Comments:** Three comments concerned the proposed collection and availability of safety data for reporting purposes. One comment noted the importance of making data on assaults available to transit agencies, workers, academics, unions, and FTA in order to identify strategies to combat the threat of assault in transit systems. The second comment concerned the format of NTD data products. This commenter requested that the NTD provide data users the ability to create and export data products. The commenter noted that such capabilities would allow transit agencies to more efficiently analyze safety and security information. The third comment noted that ensuring valid data collection “will require new or additional promotional efforts” and that “FTA should assist agencies in promoting assault awareness and reporting.”

**FTA Response:** While the Bipartisan Infrastructure Law does not include mandates to change data products, such as adding export functionality, FTA understands this concern. FTA appreciates the recommendation and has taken steps to improve our data products to meet individual data user needs. For instance, FTA recently published an enhanced safety and security

dataset that offers export functionality here: <https://data.transportation.gov/Public-Transit/Major-Safety-Events/9ivb-8ae9>.

Furthermore, FTA will continue to make iterative improvements to increase the usefulness of reports involving transit worker assaults and other safety and security data. FTA will also promote data reporting requirements via NTD Reporting Webinars via <https://transit.dot.gov/ntd> once the requirement takes effect. FTA is actively promoting assault awareness through its Enhanced Transit Safety and Crime Prevention Initiative. For more information on related funding eligibility, training on Assault Awareness and Prevention, and other resources, agencies may visit <https://www.transit.dot.gov/regulations-and-programs/safety/enhanced-transit-safety-and-crime-prevention-initiative>.

**Comments:** Two comments expressed concern about the potential burden that certain changes would create. One commenter noted that requiring State reporters, who complete reports on behalf of Rural Reporters, to report monthly S&S-50 forms may be a burden on staff resources and requested clarification about how this requirement and the S&S-60 requirement apply to State reporters. The commenter also suggested that State reporters only be required to submit data annually. Another commenter asked FTA to consider the capacity of smaller transit systems when implementing the new reporting requirements.

**FTA Response:** State reporters do not have to fill out a response to the S&S-50 form. State reporters, on behalf of Rural Reporters, will be required to submit the new S&S-60 form. FTA understands the limited staffing resources of State Departments of Transportation and smaller transit systems, and we have taken these concerns into consideration when creating the S&S-60. This form is completed once annually and collects summary data instead of detailed event reports.

**Comment:** One commenter asked which definitions would apply to certain terms used in the S&S-50 and S&S-60 transit worker assault reporting fields. Regarding the S&S-60, the commenter asked whether FTA is using the existing definition of the terms “revenue facility”

and “non-revenue facility” from the NTD Safety and Security Policy Manual. The commenter also requested clarification on what should be included in reporting for “other location.”

Regarding terms used on the S&S-50 form, the commenter asked if transit agencies should use the definition of “transit vehicle operator” in the NTD Safety and Security Policy Manual when reporting for “operators.” The commenter also asked for clarification regarding which individuals should be captured in the reporting for “other transit workers.” The commenter requested confirmation that there are no additional changes to existing definitions.

**FTA Response:** FTA’s intent is for the S&S forms to capture data and leverage existing NTD definitions wherever practicable. FTA confirms that the term “revenue facility” and “non-revenue facility” used in the transit worker assault reporting fields in the S&S-50 and S&S-60 will align with the existing definitions of those terms listed in the NTD Safety and Security Policy Manual. Specifically, “Revenue Facility” will include all areas defined in the 2022 NTD S&S Reporting Policy Manual with the “Revenue Facility” prefix (*e.g.*, Revenue Facility: Transit Center/Station or Terminal). Non-Revenue Facility will include all areas defined in the S&S-50 section of the manual as “Non-Revenue Facility.” “Other Locations” will include all areas defined in the S&S-50 section of the manual as “Other.”

In response to comments, FTA will provide clarifications in certain data fields to ensure consistent data collection and curation. To provide additional clarification on assaults on “other transit workers,” FTA will add parenthetical examples to related fields in the S&S-50 and S&S-60 forms. In the NTD S&S Reporting Manual, instead of “other worker” and “other transit staff” person types on the S&S-40, S&S-50, and S&S-60, FTA may use “other worker (*e.g.*, commercial worker, utilities worker, transit police, station agent, etc.)” or “other transit staff (*e.g.*, transit police, station agent, etc.)”

Similarly, to clarify “other” location, FTA will add a parenthetical example to related reporting fields on the S&S-50 and S&S-60. Thus, instead of “other,” the reporting fields will read “other: *e.g.*, city street.” In addition, FTA confirms that the references to “operator” in the new S&S

questions refer to transit vehicle operators as defined in the NTD Safety and Security Policy Manual. FTA also confirms that it has not made any other changes to existing definitions.

**Comments:** FTA received five comments regarding separating physical and non-physical transit worker assault data. One comment opposed FTA’s proposal to require separate reporting of physical and non-physical transit worker assaults, noting no such distinction should be made, especially if it could be used to “artificially deflate the number of assaults counted at each agency.” The second asked for additional guidance to clarify the distinction between physical and non-physical assaults. The commenter requested clarification on whether spitting would be captured as a physical assault, and whether the use of pepper spray would be considered a weapon. The third noted the importance of collecting both physical and other forms of assault (*e.g.*, non-physical) data. The fourth asked FTA to instruct grant recipients to track all physical and non-physical transit worker assaults and report these data to the NTD. The fifth commenter stated that the headers (fields) on the S&S-50 table “appear to repeat the content.”

**FTA Response:** As proposed, the S&S-40, S&S-50, and S&S-60 will collect and distinguish assaults on transit workers that were physical from non-physical assaults. Data users can then combine or separate the data as they need. While FTA cannot address the concern that statistics may be misused by data consumers to “artificially deflate” the number of assaults, FTA will include clear labels and respective data definitions wherever assaults (or components thereof) appear in NTD data publications. In response to the comment requesting further guidance about the distinction between these two types of assault, FTA notes that FTA’s S&S-40 proposal contains definitions of “physical” and “non-physical”: to be considered “physical,” an assault requires physical contact with the transit worker. This could include any physical contact with the victim from the attacker's body, a weapon, a projectile, or other item. A non-physical assault is an assault in which the attack involves no physical contact with the transit worker. This could include threats or intimidation that did not result in any physical contact with the transit worker. FTA confirms that these definitions also apply to the S&S-50 and S&S-60 forms. These



definitions will assist agencies as they record and report these data. For instance, an assault where someone spits on a transit worker would be reported as a physical assault, while an assault involving spitting near, but without making contact with, the transit worker (*e.g.*, spitting on an operator compartment barrier) would be reported as a non-physical assault. In all cases, agencies are required to track and report transit worker assault data to the NTD, either on the S&S-40, S&S-50, or S&S-60 form, as applicable. FTA also confirms that no data collection is repeated in columns the S&S-50 table as stated by the fifth commenter.

**Comment:** One comment requested that FTA require reporting of non-major assault data on the S&S-50 and S&S-60 that would be more expansive than what FTA proposed, noting that the additional data is “vital to all transit stakeholders’ understanding of what kinds of assaults are occurring and how transit agencies can prevent them.” The commenter requested data collection for the following:

- “The type of incident that occurred (*i.e.* a physical attack, verbal harassment, a threat of violence, an incidence of spitting, etc.)
- If the assailant used a weapon, what type of weapon it was
- The time of day at which the assault occurred
- The location of the assault
- Whether there was a response from law enforcement and, if so, from what agency or agencies
- For assaults occurring on transit vehicles, whether the vehicle was equipped with a barrier or other anti-assault infrastructure – and if so, what kind.”

**FTA Response:** FTA’s transit worker assault reporting proposal for non-major assaults would require transit agencies to report counts of transit worker assaults conforming to three categories of data. These categories (*i.e.*, dimensions) require reporters to separate transit worker assaults based on (1) physical vs. non-physical, (2) operators vs. other transit workers, and (3) different location categories for where the assault occurs. FTA will adopt these dimensions as proposed,

with one optional addition.

FTA recognizes that requiring reporting of additional data categories on the S&S-50 and S&S-60 can impose an additional reporting burden. Nevertheless, FTA agrees with the commenter that reporting of additional details about non-major assaults is necessary for FTA, transit agencies, and transit workers to gain a better understanding of these events and how to prevent them. As a result, FTA will add an open text field on the S&S-50 and S&S-60 forms that will allow agencies to report additional details associated with their summaries of transit worker assaults. The field will be optional; agencies can choose how much additional detail to provide, if any. For instance, agencies could use the open text field to provide details on the times of day assaults took place, whether transit vehicles involved in assaults were equipped with anti-assault infrastructure (*e.g.*, operator compartment barrier, silent alarm, audio/video surveillance, etc.), whether assaults involved physical attacks, verbal harassment, threats of violence, incidences of spitting, whether assaults involved weapons, whether law enforcement responded to assaults, or any other information they choose to report.

Gathering additional details on non-major transit worker assaults via the open text field is critical for FTA to identify risk factors and potential near-term mitigations to reduce the risk of transit worker assault by identifying more precise categories to classify the assaults in the future. FTA will monitor the initial data collected on transit worker assaults, including additional details provided by transit agencies in the open text field, to identify risk factors related to transit worker assault. In the future, FTA may propose additional data fields to strengthen its understanding of factors associated with transit worker assault that may help inform further mitigations to protect transit workers.

**Comments:** Two commenters emphasized that assault reporting should distinguish assaults on transit workers from assaults on transit riders.

**FTA Response:** FTA notes that the proposed assault reporting requirements on the S&S-40, S&S-50, and S&S-60 will result in data that distinguishes assaults on transit workers from other

events. Compared to the status quo, these data will provide FTA and other stakeholders with information specifically about assaults on transit workers.

Regarding assaults on transit riders, FTA did not propose to collect data on non-major assaults on persons other than transit workers, such as riders. This is consistent with the Bipartisan Infrastructure Law, which only requires the NTD to collect data on assaults on transit workers. As such, FTA will not change the data collection proposed.

FTA notes that the S&S-40 already captures data related to assaults on riders. The S&S-40 collects more data than the S&S-50 and applies to major events (*e.g.*, fatalities). The S&S-40 currently captures additional details about such events, such as person type: “transit vehicle rider.” FTA understands concerns that the S&S-50 also could capture non-major event data on transit rider assaults. However, FTA’s approach will follow the legislative requirement to collect data on all transit worker assaults, while also continuing to collect data on transit rider assaults that meet the threshold of “major events.”

**Comments:** Two comments sought clarification on reporting thresholds for the S&S-40 and S&S-50 forms. One comment asked whether reporting thresholds for the S&S-40 and the S&S-50 would change.

**FTA Response:** The S&S-40 thresholds will not change. The form will continue to require reporting only of major events, as defined by the NTD Safety and Security Policy Manual. The reporting thresholds of the S&S-50 will change to include any assault on a transit worker that is not covered in the S&S-40. FTA has chosen to limit the amount of data collected on non-major assaults (as it currently does with non-major events) to prevent excess burden on reporting agencies; as such, reporting of non-major assaults will not require details included in major event reports like the time of day of each event, weather, right-of-way configuration, and detailed event description.

**Comment:** One comment asked FTA to augment the collection of incident data on the S&S-50 and S&S-60 to include data about assaults on station agents (*i.e.*, ticket agents, station clerks,

etc.), noting that station agents face unique hazards as frontline transit workers that engage directly with the public.

**FTA Response:** FTA appreciates this comment and recognizes that station agents can be victims of assault due to their customer-facing role. Under FTA’s proposal, data about assaults on station agents would be collected through the assaults on “other transit workers” field. Requiring transit agencies to report separate data for station agents, as opposed to “operator” and “other worker,” would place an unnecessary burden on transit agencies in data collection; unlike operators, there may not be a roster of station agents updated regularly enough to accommodate monthly safety reporting. Therefore, FTA is not changing this data dimension at this time.

**Comment:** One comment requested that FTA require transit agencies to maintain anonymous reporting procedures for their workforce to help prevent the underreporting of non-major transit worker assaults. The commenter noted that without an anonymous reporting mechanism, transit workers may fail to report non-major assaults due to fear of retaliation. The commenter further expressed that the Public Transportation Agency Safety Plan (PTASP) Safety Committees and risk reduction programs required by the Bipartisan Infrastructure Law would be able to function only if NTD data about assaults on transit workers is usable and complete.

**FTA Response:** Pursuant to the PTASP regulation (49 CFR part 673), applicable transit agencies must establish a process that allows employees to report safety conditions to senior management and protections for employees who make such reports. Transit agencies may establish employee safety reporting procedures and mechanisms to facilitate anonymous reporting of safety concerns; however, the PTASP regulation does not require anonymous reporting processes. Any potential changes to PTASP employee reporting program requirements would occur through regulatory action distinct from the NTD reporting requirement updates addressed in this Notice.

FTA acknowledges that underreporting can be a challenge for data collection, especially for new data collection efforts. FTA notes that nothing in FTA’s proposal prohibits transit agencies from

creating anonymous safety-related reporting mechanisms. As such, FTA declines to require that transit agencies establish anonymous reporting processes.

After consideration of comments received, FTA will adopt the assault on a transit worker reporting requirements as proposed, with two changes: a) FTA will provide clarifications in certain data fields to ensure consistent data collection and curation; and b) FTA will add an optional open text field on the S&S-50 and S&S-60 forms that will allow agencies to report additional details associated with their summaries of transit worker assaults. The S&S-60 reporting requirements will take effect beginning in NTD Report Year 2023, which corresponds to an agency's fiscal year, while all changes to the S&S-40 and S&S- 50 will take effect in Calendar Year 2023.

### **C. Fatalities that Result from an Impact with a Bus**

**Comments:** FTA received two comments on the collection of bus fatality data. One of the two commenters supported the requirements as proposed. The other commenter requested that FTA require reporting of additional bus fatality data from Reduced, Rural, Tribal, and Capital Asset-only reporters, noting that Full Reporters are required to report detailed information about such events to the NTD, but other reporters are not. The commenter asked FTA to collect additional data on bus collision fatalities, including what part of the bus was impacted, the location of the collision, and the time and weather during the event.

**FTA Response:** FTA believes that the collection of data on the new S&S-60 form is sufficiently detailed as proposed and that requiring only summary data from Reduced, Rural, Tribal, and Capital Asset-only reporters is an appropriate mitigation of reporting burden. The summary S&S-60 form collects collisions with pedestrians, collisions with vehicles, collisions with other (e.g., animals), injuries, and other major events separately. FTA will reevaluate the collection of summary data in the future and, depending on trends, may at a later date propose that some of these reporter types complete S&S-40 event report forms.

Regarding collecting additional details on bus collision fatalities, FTA does not collect data on

the physical part of the bus involved in a bus fatality directly (*e.g.*, the bumper). However, FTA does collect data that can be used to infer certain parts involved.

Specifically, the S&S-40 event report form captures the vehicle “action” and the time of collision, which often corresponds to the part of the vehicle involved. For example, if a vehicle was going straight and collided with a pedestrian, that would typically involve the bumper. Collecting additional data about the part of the vehicle would add to the S&S-40 burden, which is already considerable as it is one of the longest NTD forms. FTA declines to make any other updates to the S&S-60 form.

After consideration of comments received, FTA will adopt the reporting requirements regarding fatalities that result from an impact with a bus as proposed. The S&S-60 reporting requirements will take effect beginning in NTD Report Year 2023, which corresponds to an agency’s fiscal year.

**Nuria I. Fernandez,**

*Administrator.*

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